

No. 565

American Embassy,

Tehran, Iran, December 2, 1947

FEB 18 1948

CONFIDENTIALSubject: Transmittal of Official Iranian Documents Regarding  
Helmand River Question.

Sir:

I have the honor to refer to the Embassy's telegram No. 1065, dated November 1, 1947, in reply to the Department's telegram No. 628 of October 10, 1947, regarding certain documents which the Embassy was instructed to obtain from the Iranian Government bearing upon Iran's dispute with Afghanistan over the waters of the Helmand River. The documents in question have now been compiled and translated and are transmitted herewith to the Department.

As requested by the Department, certified copies of the documents were obtained from the Ministry of Foreign Affairs, and these copies, some of which are in English and some of which have been translated from the original Persian, are enclosed. An official government map of the lower Helmand basin has also been obtained from the Iranian Irrigation Department, and copies of this map are attached for the information of the Department and of the Secretary of State.

It will be observed that the documents include, among others, the Goldsmit Arbitration of 1872, on which the Iranian Government still rests its case; the London Award of 1905, which Iran rejected as it would have given this country only one-third of the water of the Helmand; the 1939 Convention with Afghanistan and Annex thereto, both of which Iran regards as null and void, owing to Afghanistan's failure to ratify the Annex; and an exchange of telegrams with the Iranian Embassy in Kabul last summer, outlining the present position of the two governments relative to the Helmand question.

As set forth in the Embassy's telegram No. 1065, the Iranian Government regards the Goldsmit Arbitration of 1872 as being the only agreement applicable at the present time to the Helmand dispute. The abortive 1939 Convention and Annex would have provided for the distribution of the water of the Helmand on an equal basis at Kandahar when, but the Iranian Government is no longer willing to agree to this as it contends that numerous canals and other works have been constructed by Afghanistan since that point, resulting in

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a disrution of the flow of the river. This situation, the Iranian Government asserts, is the very thing which it hoped to avoid in negotiating the 1939 treaty.

Considerable confusion has existed as to the precise location of some of the places mentioned in the literature regarding the Helmand dispute. The Iranian Government takes the position, as pointed out in the Embassy's telegram No. 1065, that a distinction should be made between (1) Bandar Kamal Khan (also known as Bandar-e-Kamal Khan), which is located at the point where the Helmand turns sharply northward; (2) Band-e-Kamal Khan, some 35 kilometers east; and (3) Kamal Khan, which is even further east. It is understood that most of these points are simply dams, which makes them difficult to place upon any map with complete accuracy, but the Embassy perceives no reason to question the contention of the Iranian Government in this regard, even though, as will be noted, the name Band-e-Kamal Khan was evidently written on the enclosed map after it was printed.

As regards the 1936 or 1937 agreements mentioned in the Department's telegram No. 628, the Iranian Ministries of Foreign Affairs and Agriculture claim to have no knowledge of any such agreements between the two governments with respect to the Helmand.

The dates appearing on some of the attached documents, especially the earlier ones, do not appear to be accurate and, accordingly, the dating may not correspond with that given on other versions of the same documents. The Embassy has, however, thought it best to forward the documents with the dates given in the copies as certified by the Foreign Office.

The preparation of this despatch has been somewhat delayed, owing to the fact that many of the earlier documents which required translation were obtained in a rather unsatisfactory condition from the Iranian Government, as they contained many obsolete expressions and obscure phrases of dialect which made it necessary for the Embassy's translators to check their work very carefully. The attached translations are as correct as the Embassy was able to make them but may differ in some particulars from other versions available to the Department. This is especially true in the case of certain documents like the McMahon Award, where the Persian text as obtained from the Ministry of Foreign Affairs was itself a translation from the original English. As the latter was not available to the Embassy, it was necessary to re-translate the document into English.

The Embassy is preparing additional information and comments regarding the Helmand question which will be forwarded at an early date.

Respectfully yours,

For the Ambassador:

Wen L. Wilson  
First Secretary of Embassy

Enclosures:

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enclosures:

- 1/, Goldamid arbitration, 1872. (English)
- 2/, British Minister's letter of August 9, 1929, to Director General of Iranian Foreign Office, giving interpretation of Goldamid award. (English)
- 3<sup>a</sup>/ and 3<sup>b</sup>/, McMahon Award, February 1, 1905, and April 10, 1905. (Persian)
- 4<sup>a</sup>/ and 4<sup>b</sup>/, Letter dated January 15, 1906, from Iranian Foreign Office to British Minister, Tehran, and enclosure, rejecting McMahon Award. (Persian)
- 5<sup>a</sup>/ and 5<sup>b</sup>/, Convention and Annex, signed at Kabul, January 26, 1939. (Persian)
- 6/, Telegram of July 27, 1947, from Iranian Embassy, Kabul, regarding proposed visit of Iranian Minister of Agriculture. (Persian)
- 7/, Telegram dated August 3, 1947, from Iranian Foreign Office to Iranian Embassy in Kabul, serving notice that water must be delivered in fifteen days. (Persian).
- 8/, Telegram from Iranian Embassy, Kabul, August 22, 1947. (Persian)
- 9/, Procès verbal of joint commission, signed August 12, 1947. (Persian)
- 10/, Map of lower Helmand River. (1 copy for Department, 1 copy for Kabul)

CCO

W. Wilson:vcn

Copy to Kabul.

To Department in original and hectograph.

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FROM AMERICAN AMBASSY, LONDON.

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Goldschmidt Arbitration,  
1872.

The Arbitral opinion which I am required to deliver has been formed after perusal of the several histories of Seistan of more general note. After examination of much oral and written evidence: and after a stay of 41 days within the localities under dispute naturally the more immediate argument with which I have to deal is contained in the statement authoritatively given in by the Persian Government, (through the Foreign Office or Mirza Ismail Khan) and Afghan Commissioner. These have been carefully considered together with the documentary evidence with which they are supported. I now proceed to summarise my views on the whole Seistan question, and to carry out the instructions with which I have been honoured.

I. Seistan was undoubtedly, in ancient times, part of Persia, and it appears to have been so especially under the Safavian Kings. Also under Ahmad Shah it formed part of the Durani Empire. Further it had not been recovered to Persia until at a very recent date: and that only partially and under circumstances, the nature of which materially affect the present enquiry.

II. Ancient associations, together with the religion, language and perhaps habits of the people of Seistan Proper, render the annexation of that tract to Persia by no means a strange or unnatural measure. But Persia has no valid claim to possess it on abstract right, whether the country be taken from Afghanistan or whether it be deprived of independence. The period referred to for former connection is too remote. A century of disconnection cannot fail to be a bar to validity.

III. The possession of the Afghans for the second half century may have been more nominal than real, and more spasmodic than sustained. It may have been asserted by raids and invasions or more temporary tenure; but it has nevertheless a certain number of facts in support: and these are most material in an enquiry of this nature. General principles and theories are always important, but they cannot produce facts; whereas facts have a more practical tendency - for they support and establish general principles and theories. Neither ancient associations or national sympathy are strong enough to nullify the force of circumstances, and circumstances show that Persia has exercised no interference in the internal administration of Seistan from the days of Nadir Shah until a very recent date.

IV. Geographically, Seistan is clearly, part of Afghanistan, and the intrusion of Kalan into that province is prejudicial to the delineation of a good natural frontier.

It has been commonly considered part of Herat and Lash Juwein though its dependence on the Helmand for irrigation may cause it to be included by some in the general valley of that river. The Beh Bandam Hills manifestly separate Seistan from Persia. I cannot but believe such would have been found to be the status had an illustrative map accompanied the sixth article of the Paris treaty.

V. But while in my opinion, Afghanistan has the advantage in claims on the score of an intermediate tenure, superseding that of Nadir Shah or the Safavian Kings, it cannot be denied that from year to year she

has been

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has been relaxing her hold over Seistan; and this has been evinced in a marked manner since the death of the Amir Yek. Muhammad. It would serve to contend that the second half century of Afghan connection with the province has been a period of continuous possession. That Seistan has now fallen into the hands of the Amir of Afghanistan can only be attributed to the helplessness of its independence, and the personal action of its ruler. It was for a time at least out of the hands of Afghanistan. I do not admit that the manner in which Seistan was occupied by Persian troops corresponds with an appeal to arms such as contemplated by Lord Russell's letter quoted. There was no fair fighting at all, nor can it be admitted that allegiance was obtained by the single means of military movements or open procedure of any kind. On the other hand I cannot see that the Afghans took any measures to counteract the proceedings of Persia when treating with Ali Khan, Taj Muhammad, and other Seistan Chiefs.

VI. As the Seistan of the present day is not the separate principality of the past; and it is essential to a due appreciation of claims that the parts in possession of either side should be intelligibly defined; I revert to a territorial division which has appeared to me convenient and approximate. By this arrangement the rich tract of country which the Humum on three of its sides, and the Helmand on the fourth, cause to resemble an island, is designated "Seistan Proper", whereas the district of Chakhanseur and lands of the Helmand above the "Band", and Seistan desert, are known as "Outer Seistan". The first may be considered in absolute possession of Persia and has a comparatively large and mixed population. The second is either without population, or inhabited chiefly by Baluchis, some of whom acknowledge Persian some Afghan sovereignty. The professions of Kaimul Khan and Isma Khan do not, to my mind, prove a possession to Persia similar to that of Seistan Proper. Chakhanseur on the right bank of the Helmand is under the Afghans. But the fort of and Ali on the same bank has been lately taken by the Persians.

VII. I have to consider ancient right and present possession, and report briefly my opinion on both these heads 1st That Seistan was incorporated in the Persia of ancient days: but the Afghanistan of Ahmed Shah which also comprised Seistan had not then come into existence: and it is impossible to set aside the fact that this kingdom did exist any more than that Ahmed Shah was an independent monarch. 2nd that the possession of Seistan obtained in recent days by Persia cannot affect the question of right as regards Afghanistan. If admitted at all under the circumstances, it can only be subject to certain restrictions, and with reference to the people brought under control. Weighing therefore the merits of the case on either side, as gathered from evidence of many kinds, and with especial regard to the great advantage of a clearly defined Frontier, I submit an opinion that the tract which I have called "Seistan Proper" should be hereafter included by a special boundary line within the limits of Persia, to be restored to independence under Persian protection or governed by duly appointed Governors. This opinion is accompanied by an expression of the sincere and earnest hope that the Persian rule will prove beneficial to a people whose nominal state has been, from time immemorial, one of terror, suspense, and suffering. But I am thoroughly convinced that by the rules of justice and equity if Persia be allowed to hold possession of a country which has fallen to her control under such circumstances as these detailed her possession should be circumscribed to the limits of her actual possession in Seistan Proper, as far as consistent with geographical and political requirements she should not possess land on the right bank

of the

Enclosure No. 1 to Despatch No.  
565, dated December 9, 1947,  
from American Embassy, Tehran.

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of the Helmand. If in a question of ancient right and present possession, a military occupation of six or seven years and the previous action of a local chief be suffered to out-weigh rights and associations extending more or less over a whole century: and arbitration award the most coveted, populous, and richer part of the Seistan province, it is manifestly fair that some compensating benefit should accrue to the losing side. It appears therefore beyond doubt indispensable that Badkhi should be evacuated by Persian Garrisons, and both banks of the Helmand above the Kohak band be given up to Afghanistan. And this arrangement becomes doubly just and proper when the character of the inhabitants along the banks of the river, is compared with that of the Seistanis of Sekoh, Nashtak and Seistan Proper. The main bed of the Helmand therefore below Kohak should be the Western Boundary of Persian Seistan, and the line of Frontier from Kohak to the hills south of the Seistan desert should be so drawn as to include within the Afghan limits all cultivation on the banks of the river from the Band upwards. The Malik Siah Koh, on the chain of Hills separating the Seistan from the Kirman desert, appears a fitting point. North of Seistan the southern limit of the Baluchistan should be the frontier towards Lash Juein: Persia should not cross the Humun in that direction. A line drawn from the Baluchistan to the Koh Siah Hill near Sandan would clearly define her possession. It is moreover to be well understood that no works are to be carried out on either side calculated to interfere with the requisite supply of water for irrigation on the banks of the Helmand.

True copy

Signed P. J. Goldsmid  
Major General  
on Special Mission.

(Translation: True copy of the original sent by the British Minister as enclosure to his private letter dated December 1, 1928, to Mr. Fat-hollah Pakravan, Acting Minister of Foreign Affairs. (Signed) Chief of Archives of the Ministry of Foreign Affairs (signature illegible) Dated 6/4/1326 (August 27, 1947).

Enclosure No. 2 to Despatch No.  
565, dated December 9, 1947,  
from American Embassy, Tehran.

British Minister's letter to Director General of Iranian  
Foreign Office, giving interpretation of Goldsmid Award

British Legation, Tehran,  
9th August, 1929.

My dear Director-General,

You may have seen the correspondence, ending with my private letter of December 1st 1928, which I had with His Excellency Mirza Fatoullah Khan Pakrevan, on the subject of the award of the Goldsmid Commission of 1872 on the Perso-Afghan frontier. A few days after I had sent him that letter His Excellency informed me that the point about which he particularly required information was how the Commission divided up the waters of the Helmand.

2. I accordingly requested the Foreign Office in London to furnish me with this information and I have now much pleasure in informing you that the Goldsmid Commission gave no separate award upon the question of the division of the waters of the Helmand. In 1873, however, the Afghan Government asked for an interpretation of the last sentence of Sir F. Goldsmid's award. This sentence reads as follows:-

"It is moreover to be understood that no works are to be carried out on either side calculated to interfere with the requisite supply of water for irrigation on the banks of the Helmand."

The interpretation which Sir F. Goldsmid gave to this sentence, reads as follows:

"The clause cannot be understood to apply either to existing channels or to such old and disused channels as the Afghan Government may wish to put in proper repair, nor would it interfere with the excavation of new channels provided the requisite supply of water for irrigation on the Persian side is not diminished."

and this ruling was duly communicated to the Afghan Government in the same year.

3. I trust that this is the information you require.

Yours sincerely,

Clive

His Excellency  
Mirza Hassan Ali Khan Ghaffary,  
in charge of the Ministry of Foreign  
Affairs,  
Tehran.

(Translation) True copy of the original (signed) Chief of Archives,  
Ministry of Foreign Affairs (signature illegible) dated 6/5/1326  
(August 28, 1947).

## Final Statement of Award of Arbitration

By

Colonel J. M. McMahon  
Special Envoy of H. M. the King of England  
and the Emperor of India

Subject: Delimitation of the Frontiers  
between Iran and Afghanistan  
in Seistan.

Dated February 1, 1905  
(26 Rabi ul Awwal 1323 - Year of the Hefira.)

Art. I. In the Award made in November 1903 A.D. (Shaban 1321 Year of the Hefira) the frontier line of Seistan between the governments of Iran and Afghanistan was described as follows:

Frontier line in Seistan between Afghanistan lying east and Iran lying west must be as indicated hereunder. From Kooch-e-Salek Siah (Salek Siah mountain) in a direct line to Band-e-Kohak. From this point the course of the Helmand River will be the frontier up to the point of the partition of its two branches known as Parian River and the channel of Bad-ali. From here the course of Bad-ali has to be the frontier until the place where it enters Sikh Sar, thence the frontier line has to follow the course of Sikh-Sar up to a point near Yar Mohammad village from where Sikh-Sar branches off to the west and enters into the course of a water which is indicated on the map and reaches near Hassan Khoroot village the Shileh Shemshiri. The frontier line must pass along the left bank of this water-course to Shileh Shemshiri leaving Hassan Khoroot village in the east. Hence it must go in a direct line and separate the village Ali Jardan, which is on the west, from the village Ali Jungi, which is on the east, and reach Topeh Palai (golden hill). From there it should go in a direct line to that hill which is lying the most westerly of all the hills of Shahriki. From here it should go in a direct line to that hill which is lying the most westerly of all the Farghi hills. Hence it goes in a direct line to Shalghani and from this point in a direct line to Kooch Bandan. At the time of the declaration of that award the word "point of meeting" i.e. the confluence of two branches was used, while in this award the word "point of separation" is used which is more suitable and correct.

Art. II. As that award was accepted by both governments I have made clear the frontier line on the basis of that agreement with the setting of signs. The following will explain clearly the frontier line and the setting of the signs.

Art. III. The starting point of the frontier line is marked with the column on top of Salek Siah Mountain which being built by the Commission for the Revision of Limits between Afghanistan and Baluchistan in 1896 A.D., is known as Column No. 136 of that Commission.

Art. IV. The geographic degrees of latitude and longitude of the aforementioned column and other columns of the Seistan frontier line and the situation of each column in respect to visible points in that area and all necessary details as to the altitude, locality and terms are all described in the list of frontier columns attached to this report and the location of each column is clearly marked in the two maps belonging to this article.

Art. V.



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Art. V. From the summit of Salek Shah Mountain to Band-e-Kohak, also known as Band-e-Seistan, the direct line is shown with 51 columns. As all these columns are existing, there is no need of describing each one here. It will only do to say that No. 12 is on the southern bank of Shileh Shamshiri and No. 36 on the northern bank of Sena Road and No. 51 on the left bank of the Helmand River towards the direction where the Seistan River separates from the Helmand at Band-e-Kohak. It was impossible on account of heavy sand to erect columns between column No. 8 and No. 9 for three miles and between No. 12 and No. 13 for eight miles. In addition to the 51 aforementioned columns there are 16 other smaller signs which indicate the frontier. Details on them are given in the attached list. These columns have the following numbers 13a, 14a, 15a, 16a, 17a, 18a, 18b, 18c, 21a, 23a, 23b, 25a, 25b, 26a, 32a, 43a. In order to avoid error by mixing up these with the frontier columns they are not indicated in the attached plan but are only shown by black points without number.

Art. VI. There was no need to set up any signs from Band-e-Kohak along the course of the Helmand River up to the point of the separation of its two branches, i.e. Parian river and the channel of Bad-ali. In order to show the point of separation Column No. 52 was erected at a distance of 94 feet from the left bank of the Bad-ali channel i.e. in Iran, and Column No. 53 was erected at a distance of 65 feet from the right bank of the same channel, i.e. in Afghanistan. From this point the channel of Bad-ali becomes the frontier in the outskirts of Bad-ali itself, the right bank with the old ruins of the towers and to the point where column No. 54 becomes visible. From column No. 54 the Bad-ali channel is known as Sikh-Sar up to the point where the channel of Boost (Mehmand) village branches off, the right bank of Sikh-Sar with Column No. 55 up to the point where Sikh-Sar turns north. This is determined by column No. 56. Column No. 52 is erected on top of the visible hill known as Sikh-Sar hill (Topeh Sikh-Sar) which is situated 240 feet from the right bank of the channel of Sikh-Sar in Afghanistan. Further north the point from which the frontier line is separated from the channel of Sikh-Sar, as indicated above, is determined by column No. 58 lying at a distance of 109 feet from the right bank of Sikh-Sar and column No. 59 lying at a distance of 20 feet from the left bank of the same channel. The above mentioned column No. 58 is close to the site of the former village of Yar Mohammad. This village, though being mentioned in the above given arbitration award, has been abandoned and destroyed in these few years.

Art. VII. It is impossible at the present time to set up signs more than what has been mentioned above along the river Helmand and the channels of Bad-ali and Sikh-Sar owing to the situation of the banks being exposed to inundation, and furthermore as the running water shows clearly the frontier line the erection of further signs was not considered necessary. If one of these channels should become dry in future owing to a change in the course of the Helmand River, still with the help of the aforementioned columns and positions the direction can be easily found and if necessary new signs and columns can be set up.

Art. VIII. From Column No. 59 the frontier line becomes clear through columns No. 60 and 61 both of them placed on the left bank of the channel which enters Shileh Shamshiri near the village of Hassan Cheroot. In order to show this point column No. 62 is erected on the southern bank of Shileh Shamshiri and in the west close to the

village

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village Hassan Khoroot. From there up to Tappeh Talar (golden hill) it is marked with columns Nos. 63, 64, and 65. The last of these is situated on top of Tappeh Talar. It should, however, be noted that the villages Ali Mirjan and Ali Jangi mentioned in the arbitration award as being situated west and east of the frontier line have been abandoned and destroyed after the declaration of the award.

Art. IX. In order to show the frontier line from the point of the separation of the channels of Mad-ali and the Parian river up to Tappeh Talar, with more details than could be inserted here, a map on the scale of one inch equal to four miles and another map on the scale of one inch to one mile are attached to this report.

Art. X. Column No. 66 stands on top of the hill which is more to the west of all the hills of Shahreki. From there the direct line up to Charghi Hill becomes visible by columns 67 and 68 on the hill which is more to the west of all the Charghi hills. Column No. 69 is situated on a direct line between column No. 69 and Shalghami on which column No. 70 is erected. The land on which columns No. 67 and 69 are situated is often under water. As at the time of setting up of the signs the land was accidentally dry therefore strong columns from bricks have been constructed to last long.

Art. XI. From column No. 70 in Shalghami the direct line of the frontier up to Siah-Kooh is made clear by 19 columns from No. 71 to No. 90. Some of these are situated in the roads exposed to floods and therefore great care has been taken to construct strong columns to last long. The frontier line going from column No. 70 to 76 at a vertical distance of about 600 feet south of southern bank of the high hill called Tappeh Sharan and 3223 feet south of the southern side of Shoghalek hill and 1485 feet south of the point of the highest hill of Masjidak between columns 76 and 77. The frontier line passes through the stagnant water of Hamoon and therefore the fixing of signs has in no way been possible. Column No. 77 is situated on the western coast of Hamoon and from there the frontier line rises directly to the barren slope and the slopes of Siah Kooh. Column No. 90 is finally erected on top of Siah Kooh known in that area as Parahoo.

Art. XII. To this report are attached two maps, one on the scale of one inch to four miles (illegible) and in two separate sheets describing the whole frontier line from Kooh-e-Malek Siah to Siah Kooh, the second map on a scale of one inch to one mile describing only the frontier line between the point of separation of the two branches of the Helmand i.e. the channels of Mad-ali and the Parian river and the Tappeh Talar. It should be noticed that the number of the names of villages have been, in as much as possible, reduced in these maps as most of Seistan villages change names and location often. A great effort has therefore been made to give in the maps those villages which would likely last. These maps are to be considered as decisive and sure in place of those given with the arbitration award of November 1903 A.D. (Shaban 1321 Year of the Hejira).

Art. XIII. The list mentioned above in this report gives the necessary details of phrases, location, altitude, etc. of all the frontier columns in three sheets.

Art. XIV.

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Art. XIV. The measurements used in this report and in the list of frontier columns such as "inch, feet, yard, mile" etc. are commensurate with English measures.

I. H. McMahon

Translated by: HESepanlou

DECLARATION

Award of Arbitration  
by  
Colonel I. H. McMahon

Special Envoy of H. M. the King of England and Emperor of India and Arbitrator for the delimitation of the frontier between Iran and Afghanistan and the water questions in Seistan. Dated April 10, 1905, A. D. (4th Safer 1323, Year of the Hujira)

Preamble

Art. I. The duty of General Sir Frederic Goldsmid was to act as arbitrator between Iran and Afghanistan for the adjustment and settlement of the rights of Iran and Afghanistan with regard to land and water problems of Seistan. He declared his award on both subjects in 1872 A.D. which was signed by H. M. the Secretary for Foreign Affairs of H. M. the King of England and Emperor of India and accepted in 1873 A. D. by both the Governments of Iran and Afghanistan respectively.

Art. II. At the time of the aforementioned award the river Helmand in Seistan had a large branch and a dividing point, i.e. River Seistan, and in order that sufficient water be diverted into it at the locality of its partition a tamarisk barrage was constructed known as Kohak Dam (Band-e-Kohak) or Seistan Dam. From there further up stream the Helmand River flowed into a channel passing Bad-Alli along a channel known at present as Sikh Sar and poured into the reed lake of Hamoon. In the year 1899 A.D. a large flood caused the river to cut for itself the new large channel which branches off from the old channel in the vicinity of Shah Gol. This new channel is at present known as Rood Parian (Parian river).

Art. III. In consequence, the changes which have occurred in the courses of the channels and in the course of the main river have given ground since 1892 A. D. to various disputes on the subject of water between Iran and Afghanistan. Upon inquiries which I have made it has become evident that up to sometime ago the powerful agents of both parties i.e. the Governors of Seistan and Chakhansoor have always settled these disputes amicably between themselves. These agents knowing quite well the water requirements of one another have always shown extreme capability and competence in the adjustment of disputes to their mutual desire and satisfaction.

Art. IV. It is a pity to conceive that in these few years past, either on the ground of changes in the main channel or on the ground of the people's relations on both sides being disturbed or whatever else might be the reason, the disputes on water distribution have been unadjustable. Between the years 1900 and 1902 A. D. certain questions arose on water-distribution which though trifling and unimportant in themselves yet gave ground to further suspicion, misunderstanding and conflict owing to disturbance of relations, and which finally on account of extreme shortage of Helmand water in 1902 A. D. and other disputes arising therefrom brought about a delicate situation resulting to the present arbitration of H. M. Government.

Art. V. The condition on which both the Governments of Iran and Afghanistan accepted the supreme arbitration is that the award of this arbitration should comply with the aim and purpose of the award of Sir

Frederic

565, dated December 9, 1947,  
from American Embassy, Tehran.

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Frederic Goldsmid.

Art. VI. Therefore in the drawing up of this award I consider myself bound by that condition.

Art. VII. The award of General Sir Frederic Goldsmid stipulates on the question of water as follows:

This sentence must be known and understood explicitly that none of the parties shall take measures to construct anything with a view to interfering with the waters requisite for the irrigation of cultivation on both sides of the river Helmand. In addition thereto H. E. the Secretary for Foreign Affairs of H. E. the King of England and Emperor of India in the capacity of the final signatory of the award has, upon consultation with General Sir Frederic Goldsmid, agreed in 1873 that the above inserted paragraph should not apply to existing running channels or old and non-running channels the reparation or improvement of which would be indispensable or required. It will, however, not prevent digging of new channels provided that this would not reduce the water required for both banks.

Art. VIII. The above award is so clear that there is no need of any further explanation except in one special point which is that the award entitles Iran to the amount of water needed for the irrigation of cultivation. In order to avoid errors in future this very point has to be explained as to how much water is supposed to meet Iran's requirements.

Art. IX. Upon accurate investigation and thorough inquiries of this Commission in Seistan the following points have been clearly laid down and corroborated:-

a) Seistan suffered more from an excess of water than shortage of water. That it suffers from the need of water for irrigation of its cultivations is much less than what it loses owing to devastation of land and crop year by year from the floods.

b) The question of insufficiency of water has arisen only in few exceptional and extraordinary years in which years both Afghan and Iranian territories suffered alike. Furthermore insufficiency of water is only of importance when it applies to spring cultivation when the water level of the river is less than any other time i.e. between the month of Bizen (autumn) and the New Year (21st March). In spite of this it has been confirmed and determined that during the last 35 years Seistan was short of water in that season to a degree of importance only in three years. It is, therefore, of necessity to consider seriously the amount of water needed during the cultivation season of spring because any arrangement based on the needs of this season will suit the rest of the year.

c) Upon careful examination of the volumes of water in the Helmand River between the period of autumn and the New Year (21st March) it has been proved that one-third of water which now reaches Seistan at Sander Kamaal Khan will not only be more than sufficient for the irrigation of the existing crops on Iran's territory but will be apt to increase the existing cultivation to a larger extent. The remaining water will also meet fully the total needs of Afghan territory.

Art. X. In view of the above given facts I do hereby declare my arbitration as follows:

award

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from American Embassy, Tehran.

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Award

1. None of the parties should embark on any construction or creation of any channels considered as an interference with the volume of water needed for the cultivation on both banks but both parties have the right to keep running in their respective lands the existing channels and make flow old obsolete channels and furthermore dig new channels from the Helmand River provided that the volume of water needed for the cultivation of both parties be not thus reduced.

2. The volume of water needed for the irrigation of Iran's territories and which is procured from Band-e-Kohak (Kohak Dam) and from lower parts of it constitutes one-third of the total volume of Helmand water entering Seistan. Seistan territories to which Sir Frederic Goldsmid's award refers comprise all lands lying on both sides of the Helmand below Bandar Kamal Khan.

3. Iran is therefore entitled to one-third of the total water of the Helmand River, to be reckoned from the point where water begins to be taken from the Helmand River for the cultivation of lands on this bank or that bank below Band-e-Kamal Khan.

4. Upon creation of any construction or channels on the Afghan side for diversion of water to Seistan territories it should, however, be noted, as mentioned above, that at least one-third of the total volume of Helmand water should reach Band-e-Kohak for the use of Iran.

5. For the assurance of both parties that this award will be correctly enforced and in order to obviate the need for new reference to the English Government and avoid the sending of special agents an English officer, an experienced irrigation engineer, will be attached to the English Consulate in Seistan. This officer will have the power to give advice on doubtful and disputed cases upon application by one of the parties and if necessary to take steps in bringing the case to the knowledge of the Governments concerned. He can further draw the attention of either party to signs of any danger coming from the eventual fall of the volume of water from natural causes or as result of new constructions and channels made by them. In order that the said officer may be enabled to carry out his duties both parties will let him have free unfettered admittance to the Helmand River and its branches and to the channels branching off therefrom.

6. The existence and maintenance of Band-e-Kohak is of vital importance for the improvement of Iran's territory in Seistan. It does not seem improbable that as result of the channel of the river becoming deeper at the locality of the existing dam and somewhat below it, the necessity would arise to transfer the barrage from the present site somewhere further up-river for construction. Should this become necessary Afghanistan must let Iran change the site of this barrage and recognize this right for Iran to dig the channel thus needed over a short distance from the new barrage to River Seistan in Afghan territories. Likewise, if it is necessary for Afghanistan to move the present barrage of Shuh Gol on the Parian River and build it a little further downstream, Iran must, as happened before, give Afghanistan the right for a channel in Iranian territory from that barrage to the channel of Bad-ali.

7. This point

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7. This point will be borne in mind that the rights given Afghanistan in the Helmand River by virtue of her geographic position - naturally as the owner of the Upper Helmand, are under the award by General Sir Fredric Goldsmid subject to the reservation made in favor of Iran to the extent mentioned above. Therefore, the result is that Iran has no right to cede the water rights thus obtained to a third government without the consent of Afghanistan.

8. I cannot conclude this award without addressing a word to both governments concerned. It is evident from historic antecedents of the River Helmand in Scistan that this river has often been subject to sudden and important changes in its course and these changes have from time to time diverted the river into a new course and have dried up old running channels of the time. Very likely similar changes are apt to happen in future if no special care be taken with respect to the digging of new channels or the enlarging of those branching off from the Helmand because, if in the case of such undertakings the necessary care be disregarded, the river can likely change its course at such localities and cause immense devastations for both countries. This danger can apply alike to both Iran and Afghanistan.

I. H. McMahon

Translated by: M. Sapanlou

Translation of Letter dated January 16, 1906,  
from Iranian Foreign Office to British Minister,  
Tehran, and enclosure, rejecting McMahon award.

No. 1214/205  
18th Tighe'deh, 1323.  
(January 15, 1906)

Your Excellency,

I received your esteemed letter of 5th Shavval (December 3, 1905) and duly noted its contents regarding the sending of a note to the Government of Afghanistan by H. E. Yamin Nezam regarding the rejection of Col. McMahon's award. This has caused surprise to the authorities of the Imperial Government because no such instructions have ever been given to him and hence an urgent telegraphic order was sent to him so that if at all he has taken such a step, he might take back his letter. Nevertheless we have to remind you at this time, in reply to your letter of the above date as well as in reply to the former esteemed letters of His Excellency Sir Arthur Hardinge, that ever since the date of Col. McMahon's arbitration, unexpected reports have been repeatedly received regarding the manner of the said award against which the Imperial Government, respecting the impartiality and fairness of the functionary of your respected Government, reserved its judgment waiting for the receipt of the written text of the arbitration. It, at last, arrived and following that, there arrived too, protests and objections both from the officials of the Imperial Government and the peasants of Seistan in such volume and frequency that they made the Imperial Government ponder and hesitate and despite all the confidence we had in the equity and fairness of the agent of that Government, refrain from signing the said arbitration.

Ever since that time, the matter has been frequently brought to the attention of that esteemed Legation and in view of all these explanations, it was not expected that the Legation should state: "Should no appeal be made against the award within a reasonable period of time, the arbitration would be considered as conclusive and final by the British Government". Still however the point brought forth by that esteemed Legation to the effect that in case of dissatisfaction with the terms of the arbitration, the Imperial Government can propose its objections to the Government of His Britannic Majesty and that the latter Government is prepared to revise the terms of the award, is quite correct and now the Imperial Government hoping that the Government of His Britannic Majesty will act with equity and justice in the matter of this arbitration, submits, with the approval of that Government, its objections to the said arbitration under a separate note attached herewith so that your Government be notified of its contents and as the authorities of the Imperial Government expect, the favorable and fair reply of your Government concerning the amendment of the arbitration be sent to the Imperial Government as soon as possible.

In conclusion, I avail myself of the opportunity to convey to Your Excellency the renewed assurances of my high consideration.

Translated by: Marnagar



Translation

(This has been sent to the British Legation attached to the letter of the Ministry of Foreign Affairs dated 18th Milhijeh 1323 (February 13, 1906) under No. 1214. The letter was however registered in the books of the Ministry on 18th Milhijeh 1323 (January 15, 1906) and when finally prepared, was sent dated 18th Milhijeh. The number, namely 1214/205, was not changed.)

1. Although Col. McShon has, in accordance with paragraphs 5 and 6, conditioned his own arbitration to the acceptance of General Goldsmit's arbitration, yet in paragraph 7 wherein he has made a reference to Goldsmit's arbitration, he has maintained, with respect to the water, an interpretation made by the British Foreign Ministry in conjunction with the former arbitrator. Against this interpretation the commissioner of this Government has strongly protested. It is certain that the said interpretation is harmful to the Iranian Government because the repair and construction of old, abandoned and arid channels are considered desirable and necessary and the construction of new channels, on condition of lack of scarcity of water, is not prevented. Under these circumstances, Iran's hands are absolutely tied and it is forced to be content with present villages and farms and condemned to assume financial loss owing to scarcity of water because these ancient and abandoned channels irrigating land on the Iranian side have their source and points of ramification (from the Helmand River) in Afghan territory. Thus, vast areas of arable land in Iran which could be irrigated through those channels and cultivated fruitfully are now rendered barren while Afghanistan is quite free to reconstruct old channels and build new and desirable ones bringing barren, abandoned land under profitable cultivation.

2. Formerly, all the farmers and peasants of Poistan as well as the cattle-owners and breeders and fishermen of the province used to make full use of the water of the Poistan River, Pari Hood and other streams and channels of the Helmand River. At that time only a small volume of water used to flow into Afghanistan. Now, however, following McShon's award, the situation of water distribution has undergone a complete change and only one-third of the water of the Helmand has been given to Iran as its share according to Chapters 2, 3, and 4 and the other two-thirds allowed to go to the Afghans. It is not known why and on what basis and according to what laws, the water of the river should be distributed in this manner:

According to McShon's knowledge and information, there exist about 500,000 acres of arable land; and one-third of the water of the Helmand is adequate for the irrigation of 200,000 acres of soil.

One surmises from these that our share of the water does not fulfill the needs of half the area of cultivable land, notwithstanding the fact that should all the water of the river be used for irrigation, still due to the drying up of the Hamoun and the draining of the reed-beds, the area of cultivable land far exceeds 500,000 acres. And even if the water be distributed on the basis of the present area of land under cultivation, Iran's share of the water should be two-thirds.

3. To

-2-

3. To water the fields on the bank of the Helmand River, these channels running from Bander Kamal Khan in the north to the Kaizer (reed lake) in the south, have been so far adequate. Now however Col. McMahon has permitted the old channels on both banks to be reconstructed and new ones to be dug, too. This arrangement is undoubtedly to the benefit of the Afghans because to them have been given two-thirds of the water and they have been authorized to dig and construct new channels as well. Under these provisions, they can, within a short time, bring prosperity to the arid lands on the right bank of the river besides bringing under cultivation new areas of soil added to their share by Col. McMahon. All these points are to the disadvantage of Iran whose vast areas of land are thereby condemned to remain utterly barren.

4. According to Chapter 7 of the McMahon Award, Iran's rights in the Helmand River water have been extremely restricted while the rights of Afghanistan are so free and unlimited that the Afghans can, themselves, distribute the water in any manner they desire.

As for the condition imposed on Iran that it cannot transfer its rights in the river to a third power without the consent of Afghanistan, well, this resembles an idle ~~useless~~ admonition. The Imperial Government of Iran which considers Helmand's water inadequate for its Seistan lands is never likely to transfer its rights to a third power. But if such a condition were at all necessary to be imposed upon Iran, a similar condition ought to have been imposed upon Afghanistan to the effect that Afghanistan has no right, without the approval of Iran, to transfer to a third power the main part of Seistan in its possession at present together with its water rights, which lands and water were in Iranian possession prior to the previous arbitration and which Iran transferred to Afghanistan as per Goldsmid's award and from which important points such as Chal'eh Path, Bad-Khi, etc., Iran withdrew her garrisons.

If that had been done, a condition of this category would have been imposed on both parties alike. Now, however, the imposition of such a condition on the rights of Iran is an insult to the honor of the Imperial Government and to her prior rights in the matter under discussion; its imposition is contrary to the terms of Article 6 of the Treaty of Paris according to which such arbitrations were authorized. It should be remembered that this water belongs to Seistan and all of Seistan belonged to Iran. That part of the province which was transferred to Afghanistan according to the said treaty should be brought under this restriction too so that the Government of Afghanistan may not be able to transfer it to a third power. Indeed such a clause did not even exist in the original Goldsmid award.

5. Not only has Col. McMahon failed to observe the terms of the Goldsmid award; not only has he not acted according to its provisions, but he has also invented provisions and terms all of which are absolutely beneficial to Afghanistan and utterly harmful to Iran. It seems as if his award aims at depriving Iran of the water of the River Helmand (all of which did belong to Iran) giving the Iranian Government only one-third and bestowing two-thirds on the Afghans. The Helmand River is the natural source of water for all the arable fields of the said province and the allocation of one-third to Iran

is against

-3-

is against all natural laws of equity and fairness. Apart from this, the present arbitration has been arranged in order to solve all existing differences arising out of irrigation questions on both banks of the river and to avoid future difficulties and events. Hence, were we to divide into three parts all the arable lands watered by the Helmand River from Bandar Kamal Khan down,-- that is the whole province of Seistan--we would see that two-thirds are situated in Iranian territory while those of the Afghan side would hardly come to about one-third. Water should therefore be distributed in this proportion. From this it is apparent that the present British Commissioner has failed to take into consideration the exigencies of time and the reason for his having been invited to settle this question. He has tried to distribute the water contrary to facts and factors of the case which ought to have formed the basis of his award; his verdict is aimed at safeguarding the interests of Afghanistan and the revival of all the arid, waste and uncultivated fields of Seistan now in possession of the Afghans. Therefore as stated above, both in case of increase and decrease of the water of the River Helmand, this agreement makes Iran suffer and Afghanistan prosper because according to permission granted to Afghans to repair old and abandoned channels and construct new ones, waste land on the left bank of the river will prosper while the population of the Iranian side of Seistan, being under the pressure of drought and scarcity of water, would be ultimately forced to leave Iran and emigrate to the Afghan side.

As for what is stated in Chapter I, viz., that both sides are authorized to keep existing channels flowing and repair and make flow old and abandoned ones--this would have been very fair indeed if all the left bank of the river from Bandar Kamal Khan to Heizar (the reed lake) had belonged to Iran. Now, however, as this is not the case, matters should at least be so arranged that Iran might obtain water for the province of Seistan from the point above Band-e-Kohak (the Kohak Dam) to Bandar Kamal Khan to any other point where water might be necessary to be taken for the province allowing all its old and abandoned channels to be repaired (whenever the Afghans do so) if considered needful. But now according to this Chapter I, Iran can keep prosperous only such lands as are situated below Band-e-Kohak (the Kohak Dam) while all the fields of Maroud, Kandar, Nowzeh, etc., with an area of ten leagues in length and five leagues in breadth are separate and have nothing to do with lands situated below the Band. These must be, when necessary, irrigated by water from points above the Band and below Oak, Diloh and Roudbar.

Thus, although it has been approved for both sides to revive and cultivate their barren and waste lands, still in reality Iran has been wholly deprived of this right.

Another of the inventions of the arbitration is the creation of a permanent engineer to supervise the future execution of this award--something that has no precedent even in the Goldsmid award. Had this arbitration been wholly and correctly based upon the former one, no need would have been felt for a permanent engineer. It is certain therefore that in the light of the foregoing and because of certain other minor objections to the articles and Chapters of the Goldsmid Award, the Imperial Government of Iran is bound to consider the said award entirely antagonistic to its interests and categorically protests against the same.

Translated by: M. Farnegar.

from American Embassy, Tehran.

(Translation)  
(from the Press, March 20, 1939)

CONVENTION FOR THE DIVISION OF HELMAND RIVER WATER BETWEEN  
THE GOVERNMENT OF IRAN AND THE GOVERNMENT OF AFGHANISTAN

(Submitted to the Majlis on March 19, 1939)

Whereas the Imperial Government of Iran and the Royal Government of Afghanistan are equally desirous that a just arrangement be made between the two countries for the division of Helmand River water and a special agreement be concluded and signed for this purpose, they have therefore chosen their plenipotentiaries as follows:

For the Imperial Government of Iran, His Excellency Hagher Kazemi, Ambassador of the Imperial Government at Kabul; and

For the Royal Government of Afghanistan, His Excellency Ali Mohamed Khan, Minister of Foreign Affairs.

Having exchanged their full powers which were found in due and proper form, the said representatives agreed on the following terms:

Article 1. The Governments of Iran and Afghanistan agree each year to divide evenly any amount of water from the Helmand River which may reach the Kamal Khan dam, the division to be made from the Kamal Khan dam on.

Article 2. In order that between the village of Chaharborjek and the Kamal Khan dam no water may be used in addition to the amount now being taken, the Government of Afghanistan agrees to build a new canal for that same distance, in addition to the canals that have been or are being used, and also to make repairs.

Article 3. Authorized officials and water distributing agents of both parties will each year in the autumn jointly determine the amount of water reaching the Kamal Khan dam and the amount of water each party draws from the Helmand between the Kamal Khan dam and Sikhsar through channels branching out from the said river, and charge it to the share of the respective party, in such manner that both shares shall be equal.

The statement of divisions, the names of canals, and the quality of water in each canal will be determined and communicated by each party to the other. If any modification should hereafter be necessary in these statements, calling for an increase in one place and a decrease in another instead, the parties will inform each other.

Article 4. The installations and equipment necessary for determining the quantity of river water and the channels of both parties will be supplied by the technical officials of Iran and Afghanistan at the expense of both parties, each paying half, and will be erected in suitable places from the Kamal Khan dam onward. In case of necessity they will also regulate the river channel between Bank-i-Kuchek and Sikhsar.

Article 5. In order that the water of the Helmand River may be distributed and regulated from the Kamal Khan dam in an equitable manner, as is the purpose of this Convention, the technical officials

of both

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of both parties will build permanent diversion places in their own territory where they may deem it suitable. The cost of building these diversion places will be borne by the contracting parties after reaching a mutual agreement as to the project, in due proportion to the quantity of water taken by each.

Article 6. Until permanent dams are constructed the dams made of tamarisk wood ("gaz") will be built as before, and if the parties need tamarisk wood for constructing the dams they will furnish it to each other on payment of its cost.

Article 7. Inasmuch as the mouths of the canals, which branch out directly from the Helmand River from the Kamal Khan dam and flow to the territories of both parties, are made of earth the two contracting parties agree, within a maximum period of four years from the date of the signature of this convention, gradually to build the mouths with brick and lime in a proper manner, each at its own expense, to the end that no surplus or shortage may be found in the share of each party.

Article 8. Both governments agree to take no action between the Kamal Khan dam and the village of Dost Mohamed Khan and Sikhsar, which is the last division point, to the end that no surplus or shortage may be occasioned in the share of each party.

Article 9. The Governments of Iran and Afghanistan mutually agree that technical and air officials in charge of enforcing the operations provided in this Convention, as well as the laborers employed to close, construct, clean, and regulate the dams and canals between Dank-i-Kuchek and Sikhsar, as may be authorized by virtue of this Convention in the territory of the other party, may enter each other's territory if they are unarmed and have permits.

Note. The material, equipment, and articles needed by officials and workmen for the performance of the duties mentioned in this Convention, or to meet the necessities of their maintenance, will be exempt from customs duties when taken over the border by the individuals themselves.

Article 10. In case the Helmand River above the Kamal Khan dam is diverted to a new bed the purport of article 1 shall, with the consent of both Governments, be applicable to some other place which is equivalent to the Kamal Khan dam in the present Chokhansur area, and a place of distribution will be designated. If the river should join the new bed below the Kamal Khan dam, or the present bed should become so deep that it would be impossible to irrigate the lands in Seistan, the two Governments undertake to conclude a separate agreement by mutual consent to the end that the Seistan lands may benefit from the share of water fixed in Article 1.

Article 11. Any difference arising in the execution of the provisions of this Convention which the water distributing agents and officials in charge are unable to solve or which are beyond their powers, will be settled by the Governor and the Financial Agent of Seistan on behalf of the Iranian Government, as well as the Governor and the Financial Agent of Chokhansur on behalf of the Government of Afghanistan, or their representatives. Any decision unanimously taken by this committee shall be binding. In case the question in dispute is not thus settled within two months from the date of the origin of the

difference,

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difference, it shall be as expeditiously as possible settled between the respective governments.

Article 12. In case the subjects of either party should change the method of making use of the water of the Helmand River from the Kamal Khan dam as provided in this Convention, or should violate the provisions thereof, the contracting parties agree to take necessary steps immediately in their respective territory to remedy the situation and punish the offenders.

Article 13. The contracting parties undertake within two months from the date of signature to inform the frontier officials and the inhabitants living along the river of the method of using Helmand River water from the Kamal Khan dam, and of their share in their own territory.

Article 14. As soon after the signing of the Convention as possible each contracting party will appoint, and introduce in writing to the other party, an official who is to supervise the enforcement of the articles of this Convention and to whom questions can be referred.

Article 15. This Convention shall be ratified within three months by the appropriate authorities of both parties, and the instruments of ratification will be exchanged in Kabul.

Article 16. This Convention shall be valid and in force from date of the exchange of the instruments of ratification.

This Convention has been drawn up in two copies in the Persian language, and both copies shall be equally binding.

In witness whereof the plenipotentiaries of both parties have signed and sealed this Convention.

Kabul, January 26, 1939 (Bahman or Duly 6, 1317).

Bayher Kazemi  
Ambassador of the Imperial Government of Iran

Ali Mohamed  
Minister of Foreign Affairs of the Royal Government  
of Afghanistan

Translated by: FSaleh

COMMUNIQUÉ

In view of the friendly and fraternal relations so happily existing between the Imperial Government of Iran and the Royal Government of Afghanistan, now that the Convention relating to the division of the Helmand River water is being signed by the plenipotentiaries of both parties, in order that there should remain no misgivings or suspicion in the minds of the people of Seistan and Chokhansur and ultimately between the Governments of the two parties, and in order that the inhabitants of both sides of the border may with utmost mutual sincerity and confidence trust each other's friendship and cooperation, they have signed the following joint Communiqué which they annex to the Convention regarding the division of the Helmand water of this date:

(1) The Imperial Government of Iran announces that its sole object in this Convention is the cultivation and irrigation of Seistan, to the end that farmers may not suffer want and difficulties on this score. It has no intention of seeking a means and pretext for interfering in the interior of Afghanistan. It consistently wishes Afghanistan progress and prosperity.

(2) The Royal Government of Afghanistan announces that it has no intention of causing restrictions and bringing pressure to bear in not letting water reach Seistan, and it will not, therefore, permit any action which would result in the diminution of the water share of Iran at the Kunal Khan dam (an arrangement explained in Article 1) and the consequent damage to the cultivation and irrigation of Seistan.

Kabul, January 26, 1939 (Bahman or Dalv 6, 1317).

Dagher Kazemi  
Ambassador of the Imperial Government of Iran

Ali Mohamed  
Minister of Foreign Affairs of the Royal Government  
of Afghanistan

Translated by: APB:leh

Translation of Telegram from Kabul,  
dated July 27, 1947 (Corded 4, 1326)

Code message dated July 16 (Tir 24) was communicated in detail.  
note has been received in reply as follows:

"The statement made in the Embassy's note that the Afghan Government's proposal does not meet with the views of the Imperial Iranian Government was noted with surprise, for the proposal by the Afghan Foreign Office was made at the request of His Highness the Prime Minister and His Excellency Hedayatullah from His Excellency Mohammad Haidar Khan, former Afghan Ambassador in Tehran, and at the request of His Excellency Hedayat, Iranian Ambassador in Kabul, from His Exc. the Minister of Foreign Affairs (of Afghanistan). They fully stated that the object of the Imperial Government of Iran was to safeguard cultivation in Helmand, and the Afghan Government wanted to ascertain the status of cultivation and the quantity of water used in Helmand and make an arrangement. It regrets the proposal which also for a mission to study the course of the Helmand River. The Helmand River flows entirely in Afghan territory and may in no way be studied or interfered with by a mission. The Imperial Iranian Government shows that the place where water is divided is Kand-e-Kanal and the Afghan Government is not prepared to discuss the subject of the Helmand River with the Imperial Government of Iran any more above Kand-e-Kanal Khan. The Afghan Government has accepted the Helmand Agreement and does not recognize the validity of the declaration relating thereto on the strength of doubt (expressed) by the Majlis. Therefore, the Imperial Government of Iran should either accept the Agreement without exercising influence or put an end to this affair or allow an Afghan mission to proceed to Helmand and report on the water needed there in order that a decision may be taken. The Imperial Iranian Government must bear in mind that it is Iran that receives water from Afghanistan and it is not Afghanistan that receives water from Iran, and that it is not logical for an Iranian mission to examine an Afghan river and determine the amount of water. It is, therefore, respectfully pointed out that if His Excellency the Minister of Agriculture and his party wish to come to Kabul, they will be received with utmost pleasure. It is, however, believed that before the nature and extent of cultivation and the water used in Helmand are studied by an Afghan mission negotiations by an Iranian mission in Kabul, lacking a favorable ground as they do, would not be of any consequence."

Fahini

Translated by: Ali Fasha Saleh



Translation of Telegram dated August 3, 1947, from  
Iranian Foreign Office to Iranian Embassy in Kabul,  
serving notice that water must be delivered in  
fifteen days.

11 Mordad, 1326 (Aug. 3, 1947)

31 - After paying the usual compliment give the following text  
as an answer to the recent memorandum sent by the Ministry of Foreign  
Affairs of Afghanistan mentioned in your cable.

1. The proposal made by the Royal Afghan Government suggesting  
the dispatch of a mission to Seistan in no way conforms with the  
views of the Imperial Iranian Government. The Government of Iran  
on no occasion, has made such a proposal.

2. Since the Royal Afghan Government considers the dispatch  
of a joint mission to examine the course of the Helmand River as  
an interference in the internal affairs of Afghanistan it is indeed  
surprising that the Afghan government itself is suggesting that a  
commission composed of Afghan members only be sent to the Seistan  
area to visit that locality.

3. Because the declaration supplementary to the 1317 (1938)  
agreement, and other proposals made by the Imperial Government of  
Iran with a view to solving the problem of the waters of the Helmand,  
were not accepted by Afghanistan, it seems necessary to remind the  
Ministry of Foreign Affairs of the Royal Afghan Government that the  
1317 (1938) agreement, together with the Declaration which was signed  
by the Minister of Foreign Affairs of Afghanistan were both, jointly  
and at one time approved by the Iranian Parliament, and to state that  
the Government of Iran cannot honor the agreement alone and disregard  
the Declaration which is inseparable from it. Therefore the Govern-  
ment of Iran with a view to solving the problem will perforce invoke  
the Goldsmit arbitration. The Goldsmit arbitration explicitly states  
that no stops shall be taken by either party for the purpose of with-  
holding the water necessary for irrigation along the Helmand. The  
interpretation made by Sir Frederick Goldsmit in 1873 on his arbitra-  
tion at the request of the Afghan Government of the time, and by  
order of the British Foreign Office, explicitly states that the  
aforesaid sentence does not prohibit the digging of any new channel,  
provided that it does not decrease Iran's share of the water. The  
Ministry of Foreign Affairs of the Royal Afghan Government, after  
considering the aforementioned arbitration, and its interpretation,  
will admit that the Afghan Government is not permitted to take any  
action anywhere along the course of the Helmand River, which might  
decrease Iran's share of the water. For this reason, the Imperial  
Government of Iran is within its rights in inspecting any action  
taken by the Government of Afghanistan anywhere along the course of  
the Helmand River. Having brought the above facts to the attention  
of the Afghan Government, the Government of Iran hereby notifies the  
Government of Afghanistan, that if at the end of fifteen days from  
the issuance of this note, they continue to withhold Iran's share of  
the water, and maintain the unfriendly attitude, and persist in the  
violation of the rights of Iran, as they are doing at this time, the  
Imperial Government of Iran, with deep regret, will be forced to  
take measures by appropriate means to recover its rights. It is  
obvious that the Royal Government of Afghanistan will be held respon-  
sible for all damage suffered by the people of Seistan in the loss of  
crops due to the lack of water.

Translated by: M. Forough

Translation of Telegram Received from Kabul, 30/6/26  
(August 22, 1947.)

508 - The following note was received by the Embassy on 25th  
Aordad (Aug. 17).

"In the first part of the note the (Iranian) Embassy writes that the Afghan proposal for sending a joint commission to Seistan does not conform with the views of the Imperial Iranian Government. During discussions between H.E. the Prime Minister and H.E. the Undersecretary for Foreign Affairs and H.E. the former Minister of Agriculture and the former Afghan Ambassador as well as discussions between the Iranian Embassy and the Ministry of Foreign Affairs of Afghanistan it was explicitly stated that the Iranian Imperial Government's only purpose was safeguarding the irrigation of Seistan's present cultivation and it is only to determine the irrigational needs of Seistan that the Afghan Government has proposed a joint commission to go to Seistan so that if the extent of cultivation should be equal to its determined water rights and if it (cultivation) has not been illegally expanded then the matter would be considered; because the Helmand River covers hundreds of kilometers in Afghanistan and the prosperity and the very existence of the population depend upon the water of the Helmand; so, naturally good use must be made of it. It is contrary to justice and fair play that the country of origin should give up its rights of cultivation for the illegal expansion of some other country's agriculture. Afghanistan wishes to make legitimate use of the water of the Helmand, which is a southern river of Afghanistan, and at the same time wishes that the water rights of Seistan be also used and safeguarded. In reply to the second part of the note it was stated: It is indeed surprising that although the Imperial Iranian Government only wishes to safeguard irrigation in the Seistan area and the Afghan Government has proposed that a joint committee should be sent for the purpose mentioned in part one, the Iranian Government has rejected that proposal and the proposal has even caused it (the Iranian Government) surprise. The Imperial Iranian Government has no right to determine the amount and depth of water used by the Afghan Government above the distribution point. It can only demand from the Afghan Government a share of water justified by fair play and justice for legitimate cultivation of Seistan and in order to determine that amount of water the extent of Seistan's cultivation should be studied, to determine whether or not it has been illegally expanded. There is no need of investigating the course of the Helmand, and that is why Band-o-Kamal Khan was chosen as the distribution point. Therefore the request of the Afghan Government for sending a joint commission and its refusal of the investigation of the Helmand's course should not surprise the Imperial Iranian Government. There is no agreement that gives the Imperial Iranian Government the right to investigate the course of the Helmand and the Afghan people consider this as interference in their internal affairs, something that we have never accepted nor undertaken under any circumstances. Respecting the third part of the note the Afghan Ministry of Foreign Affairs wishes to clarify the following points:

In the Goldsmid award of arbitration it is stated that along the two banks of the Helmand between Chakhansur and Seistan no steps should be taken that might jeopardize the rights of the other party. Afghanistan carried out her obligations at the time but apparently the Imperial Iranian Government violated that agreement and dug new

channels

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channels within the forbidden area and by doing so violated the articles of the said agreement and actually annulled it. Afterwards according to the request of the Iranian Government of the time a new arbitration agreement was made. After thorough investigation of lands and cultivation in Seistan it was decided that the water rights of Seistan should be a third of the water impounded at the fixed distribution point and it was explained that a third of that water was sufficient for Seistan's then and future agricultural needs. The Afghan Government respected that agreement also and did not take any steps against it. But unfortunately the Imperial Iranian Government during the Afghan revolution and contrary to the regulations of Galdaid and Helmand arbitrations dug new channels and actually disregarded both agreements, so that the Afghan Government repeatedly protested against it at the time. Naturally these new excavations for illegal expansion of Seistan's agriculture caused losses to Afghan farmers which should in all fairness and justice be compensated for by the Imperial Iranian Government. In order to stop these violations the agreement of 1317 (1938) was concluded, in the text of which there is no mention about the "communiqué" (annex) being a part of it, therefore the said communiqué should in no way be considered as an integral part of the pact. That communiqué was not approved by the Afghan National Assembly and therefore the Iranian Government was advised of its having been disapproved. The agreement itself was ratified by the national assemblies of both countries. Since the day when the question of agriculture of Seistan and Afghanistan came up, Afghanistan has assumed a fair attitude towards the Imperial Iranian Government and has always acted according to regulations of arbitration, whereas the Imperial Iranian Government has always tried to get more water from the Helmand than its share, and as regards arbitration and friendly suggestions of Afghanistan it has assumed an attitude which does not agree with the sincerity and wishes of two countries that try to find a solution. With the foregoing explanations it must be quite clear to the Embassy that Afghanistan has always respected the agreement and awards of arbitration, whereas the Government of Iran has always violated them, and by doing so has caused losses to Afghan farmers. Afghanistan has always wished to settle the question by agreements and conciliatory proposals suitable to friendly feelings and brotherhood and good and neighborly relations. Therefore lately the Afghan Government gave special consideration to and gladly accepted the Imperial Iranian Government's proposal about sending the Iranian Minister of Agriculture to Afghanistan for direct negotiations. Subsequently, the Government of Iran has always disregarded our votes and has rejected the peaceful and friendly proposals of Afghanistan. The Afghan Govt. insists <sup>only</sup> upon defending the legal rights of the Afghan people and we cannot under any circumstances give up those rights at any cost.

Translated by: VSSimonian.

PROCES-VERBAL

Date of Translation: Oct. 28, 1947

PROCES-VERBAL OF JOINT COMMISSION

Signed on August 12, 1947

(Worded 20, 1326, corres-

ponding with word 19, 1326)

at the village of Bust Mohammad

Khan in Afghan territory:

In accordance with instructions and orders given by the Imperial Government of Iran and the Royal Government of Afghanistan the two commissions assigned by the two Governments to divide the water of the Helmand River on a temporary basis, following a verbal agreement reached at the meeting held on August 3, 1947 (Worded 11, 1326, corresponding to word 10, 1326), at al'eh-i-o in Iranian territory, the two commissions of the Imperial Government of Iran and the Royal Government of Afghanistan proceeded on Sunday August 10, 1947 (Worded 18, 1326, corresponding to word 17, 1326), from Band-e-Kohak on the Helmand River on horseback and by camel and visited the streams branching off the Helmand River, i.e. the joint boundary river called Lahr-e-Shahi, and Lahr-e-Khabrah Dakeh Dilah, respectively, and on August 11, 1947 (Worded 19 corresponding to word 18, 1326), arrived at the village of Bust Mohammad Khan in Afghan territory. The Delegation of the Royal Government of Afghanistan stated that at Bandar Kamal Khan which is located across from the village of Bust Mohammad Khan the water of the Helmand River should in principle be measured at Bandar Kamal Khan and Kohak as in previous protocols and divided as far as Band-e-Lakhashik, and on August 11 (word 18 corresponding to Worded 19, 1326), the water at Bandar Kamal Khan was measured by Afghan engineers. It was found to be 140 liters per second. But the delegates of the Imperial Government of Iran did not agree to the measuring done at Bandar Kamal Khan and in principle considered Band-e-Kamal Khan as the place where water should be measured and divided. They believe that Band-e-Kamal Khan is not opposite the village of Bust Mohammad Khan but that it is farther up from the Chahar Borjak stream. For the division of water of the Helmand River is between the farmers of Feistan and Chokhansur and the real properties and streams in al'eh Fat-h and Chahar Borjak as far as Band-e-Khan are part of Chokhansur district, and the said streams should be taken into consideration in the division into halves. And furthermore the Imperial Iranian Government Commission has done no measuring of the Helmand River at Bandar Kamal Khan and has no information of the amount of water there. However, the delegates of the Royal Government of Afghanistan did not agree to this explanation and statement by the Commission of the Imperial Government of Iran and they do not consider al'eh Fat-h and Chahar Borjak as being included in the division of water as in the past. And they were not at all prepared to allow the Imperial Iranian Government Commission to visit the river and streams farther up from the village of Bust Mohammad Khan. Consequently, no joint measuring or division of water took place, and the two commissions of the two Governments returned for above reasons, and left the matter to the high authorities of both Governments to solve.

This proces-verbal is drawn up in duplicate, signed and exchanged between the two parties.

Imperial Iranian

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Imperial Iranian Government's  
Delegation:

Engineer Mohammad Hosein  
Charinatti, Chairman

Lieut. Col. Safapur,  
Boundary Commissioner  
of Tabol

Engineer Mahaud Tavana,  
Engineer and represent-  
ative of the Independent  
Irrigation Department

Cardar Mohammad Amin Marushi,  
Representative of the  
Governor of Tabol

Hosein Farani, Representative  
of the Governor of Tabol

Royal Afghan Government's  
Delegation:

Mohammad Ashraf Khan Mojaidei,  
Chairman

Methar Ahoud Khan Chondmeshr,  
Boundary Commissioner of  
Chokhansur

Mr. Stanley, Director General  
of Irrigation in Afghanistan  
and engineer for dams and  
streams

Fat-h Mohammad Khan, Engineer,  
Technical Director of  
Dams and Streams, Ministry  
of Public Works

Jan Mohammad Khan, Technical  
Director of Dams and Streams,  
Ministry of Public Works.

Translated by: A. Saleh